



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

REGULAR U.S. MAIL

Mr. Charles Powell, Counsel  
Orion Marine Construction Inc.  
5440 W. Tyson Avenue  
Tampa, FL 33611

Dear Mr. Powell:

You appealed from the action of Naval Facilities Engineering Command, Southeast, the Initial Denial Authority (IDA), on your Freedom of Information Act (FOIA) request for records related to a Defense Contracting Audit Agency report that you identified with particularity in your request.

The IDA withheld the responsive records under FOIA exemption 5 in a letter date August 7, 2019. You appealed from that action, arguing that the IDA erred in withholding the records.

Upon receipt of your appeal, I coordinated with Naval Facilities Engineering Command, Southeast Office of Counsel and determined that, with concurrence of that office, the proper disposition of the matter is a remand (by copy of this letter) to the IDA for reconsideration. The IDA, then, will reconsider the request and will take a new action, providing you with appeal rights, if appropriate.

I hereby close the appeal as moot in light of the remand for reconsideration. Please note that my action is nothing more than a remand for reconsideration at the request level. It does not imply that any errors were made in the original action. It is taken solely for the purpose of allowing the IDA to reconsider the request.

Sincerely,

/s/ *Richard D. Zeigler*

Richard D. Zeigler  
Assistant to the General Counsel

Copy to:  
IDA



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/242

August 27, 2020

Matthew Banks

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-2020-008862 FOIA APPEAL Banks DON-NAVY-2020-010783

This letter responds to your FOIA appeal dated July 7, 2020, which was received by my office on August 3, 2020, and given tracking number DON-NAVY-2020-010783. Your underlying FOIA request, DON-NAVY-2020-008862, submitted to the Board for Correction of Naval Records (BCNR), the initial denial authority (IDA), sought records regarding your client, SSgt Robert North. On July 7, 2020, the IDA responded to you. In your appeal, you contend that the BCNR's search was inadequate because, although it purported to grant your appeal, it submitted the wrong decision letter to you.

Your appeal is a request for a final determination under the FOIA. For the reasons stated below, I am denying your appeal as moot, but remanding it to the IDA for further action.

After receiving your appeal, my office contacted the IDA. The IDA reviewed your appeal and concurred that it had sent the wrong decision letter to you, due to confusion in processing multiple cases for Mr. North. The IDA requested that the case be remanded to their office for corrective action. Because the IDA's response to your request did not accurately reflect their decision, I am remanding the request to the IDA for correction.

Your appeal contends that the IDA's search was unreasonable because it failed to provide the correct record. Because the IDA is correcting its error, I find this issue to be moot.

Therefore, I am denying your appeal as moot, because the IDA will take appropriate corrective action upon remand. The request is remanded to the IDA for correction. The IDA is, by copy of this letter, directed to provide you the corrected response within 20 working days of this letter. If the IDA is unable to complete any necessary correction or record releases during that time, I am directing it to inform you by the end of the 20 days the date it will complete its review and its response to you. Upon completion of the IDA's response, if you are dissatisfied with the response, you retain the right to appeal

that response to this office on whatever grounds you deem appropriate, so long as you do so within 90 calendar days from the date of the IDA's final response.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. Government and is, therefore, unable to assist you in this process.

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have further questions or concerns for my office, my point of contact is Lieutenant (b) (6), USN who may be reached at (b) (6)@navy.mil or (b) (6).

Sincerely,

(b) (6)

S. D. SCHROCK

Director

General Litigation Division

Copy to:  
BCNR  
DNS-36  
DON CIO



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/0043

November 25, 2019

Mr. Lizzac Bautista

(b) (6)

Email: (b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST  
DON-NAVY-2019-010159; FOIA APPEAL DON-NAVY-2019000023

First, please accept my condolences on the loss of your son.

This letter responds to your appeal received in this office on October 1, 2019. Your underlying FOIA request, DON-NAVY-2019-010159, submitted to the Naval Criminal Investigative Service (NCIS), the initial denial authority (IDA), on August 12, 2019, sought a copy of the autopsy and toxicology report for your son, Lance Corporal Bautista. The IDA responded on September 22, 2019, enclosing a copy of its death investigation, as well as other graphic photographs and sketches separately included on a distinct CD also enclosed with the letter. Finally, the IDA noted it had referred portions of your requests to the Armed Forces Medical Examiner System (AFMES), for a release determination and/or production.

In an undated letter, you appealed NCIS's response, seeking specifically a copy of the autopsy and Okinawa police report regarding the death of your son.

Upon receipt of your appeal, my office contacted the IDA, who confirmed it had referred your FOIA request for the autopsy report to the AFMES office, which is identified as the autopsy report's release authority. NCIS noted this referral in its letter and on page 42 of the records already produced to you. Our office contacted the AFMES FOIA office, who confirmed that the autopsy report had been mailed to you on November 6, 2019 and received at your residence November 7, 2019. If you did not receive a copy of this report or require an additional copy, please contact (b) (6) with the AFMES FOIA office, at (b) (6).

Your request also asked for a copy of the Japanese police report, created by the Okinawa City Police Station (OPS). NCIS received and had translated a copy of this report. The translated report was provided in the responsive materials issued to you on September 22, 2019. As a courtesy, I have enclosed a second copy of the English translation of the report to this letter, to help better identify the documents for you. I



have also included copies of the reports enclosures, which includes diagrams of the residence where your son passed (previously provided), a diagram of your son's body and injuries, photos of your son's residence and physical condition at the time of his passing, and photos of the scene. Please be advised these materials are graphic, and you may wish to have someone else review the photos first.

During our review, our office identified the enclosed photos, one body diagram, and a map that had not been previously provided, which appear to have been errantly excised with the Japanese language report. However, the English translation of the police report includes the translations of these Japanese characters for each item except for the map. We have redacted the Japanese characters from these responsive items, but otherwise produced the remaining content.

On November 8, 2019, my office contacted you regarding the map record, which has several notations in Japanese but did not appear to be translated with the report. You agreed to waive receipt of these notations, and to permit redactions of same, instead of waiting for the IDA to obtain an English translation of the map. Accordingly, my office has redacted the Japanese words and provided the remainder of the map, which is enclosed with this letter.

As noted above, the original OPS report and its enclosures are in the Japanese language. I find provision of the English translation of these materials, redacted in accordance with FOIA exemption (b)(6) and (b)(7)(c) to protect the personal privacy interests of investigation participants, is reasonable and sufficient to meet your request. Your appeal did not contest these redactions, and we have maintained their redacted status on the records enclosed to this letter.

I find that the IDA has responded to your request, asserted appropriate exemptions, and released all segregable information. Because you are already in possession of a copy of the Japanese investigative materials and requested AFMES autopsy and toxicology reports, I find that your request is now moot. The enclosed materials complete the IDA's prior response.

As the Department of the Navy's designated adjudication official for this FOIA/PA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is, therefore, unable to assist you in this process.

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031. You may also seek dispute resolution services from the Office of

5720  
Ser 14/0043  
November 25, 2019

Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or [ogis@nara.gov](mailto:ogis@nara.gov).

If you have further questions or concerns for my office, my point of contact is Maj (b) (6) USMC, who may be reached at (b) (6) navy.mil or (b) (6).

Sincerely,

(b) (6)

G. E. LATTIN  
Director  
General Litigation Division

Encl:  
English Translation of Japanese Police Report (with graphic enclosures)

Copy to:  
NCIS  
DNS-36  
DON OCIO

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6) [CIV \(USA\)](#); (b) (6) [CIV USN \(USA\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** CHALPIN FOIA APPEAL DON-NAVY-2020-007056  
**Date:** Wednesday, April 29, 2020 1:39:58 PM  
**Attachments:** [Appeal DON NAVY 2019-009078 with exhibit.pdf](#)

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Mr. Chalpin:

I am in receipt of your FOIA appeal, set forth in the attachment. Upon receipt, I coordinated this matter with the FOIA staff for Naval Facilities Engineering Command Southwest (the Initial Denial Authority, or IDA). The IDA has determined that reconsideration is the appropriate course of action. Accordingly, I hereby remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider and take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** Mark Chalpin <(b) (6)>  
**Sent:** Thursday, April 23, 2020 9:27 AM  
**To:** (b) (6) Maj USMC (USA) (b) (6) navy.mil>  
**Subject:** [Non-DoD Source] FOIA Appeal of Partial Denial of Request DON-NAVY-2019-009078

(b) (6) :

Please see my attached FOIA appeal. Can you please acknowledge receipt and whether I have now properly filed my FOIA appeal?

Mark G. Chalpin, Esq.

116 Billingsgate Lane

Gaithersburg, MD 20877

Office: (b) (6) | Cell: (b) (6)

<https://www.markchalpin.com>



DEPARTMENT OF THE NAVY  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

JAN 15 2020

REGULAR U.S. MAIL

Mark G. Chalpin  
Law Office of Mark G. Chalpin  
116 Billingsgate Lane  
Gaithersburg, MD 20877

Dear Mr. Chalpin:

You appealed from the action of Base Realignment and Closure Program Management Office West (BRAC PMO), the Initial Denial Authority (IDA), on your Freedom of Information Act (FOIA) request for:

*Any communication between CH2M and the Navy related to comments, edits or additions to the Draft Radiological Report Findings for Parcel B and G Soils (September 2017) or the Parcel G Removal Site Evaluation Work Plan (Draft June, Draft Final November 2018, and Final June 2019).*

The IDA responded in two actions, dated September 3, 2019, and October 24, 2019, respectively, and provided responsive records to you, withholding some records and redacting certain information in others in accordance with FOIA Exemptions 4, 5, and 6 (5 U.S.C. §552(b)(4), (5), and (6)). The IDA also advised you of your administrative appeal rights. I note that, even with these two actions and releases, the IDA continues to review records responsive to the request and will provide additional action in the future.

In your appeal of November 27, 2019, you argued that the IDA erred in the application of exemptions to the withheld and redacted records, and you specifically asserted error with respect to:

- a. Whether BRAC PMO West improperly withheld 48 records in their entirety under FOIA Exemption 5;
- b. Whether BRAC PMO West improperly withheld redacted portions of 4 specific emails; and,
- c. Whether a portion of 1 email is exempt from disclosure under FOIA Exemption 4.

In your argument with respect to the Exemption 5 withholdings and redactions, you cite *Rojas v. FAA*, 927 F.3d 1046 (9<sup>th</sup> Cir. 2019) and assert that the consultant corollary is not applicable to records reviewed, as some responsive records were in this case, by third-party consultants. (I note that a petition for rehearing is before the 9<sup>th</sup> Cir. at this time).

Upon receipt of your appeal, personnel from the FOIA Office of the Office of the General Counsel coordinated with the IDA's FOIA office and Office of Counsel. As a result, the IDA has agreed to reconsider the actions in this case.

Accordingly, I hereby remand this matter, by copy of this decision, to the IDA for appropriate action. I direct the IDA to reconsider the actions in light of the arguments presented in your appeal and, in particular, in light of the *Rojas* case. As reconsideration will occur simultaneously with the ongoing review of additional records responsive to your request, it is clear that you will not incur harm because of the remand. If, upon your review of the IDA's action upon reconsideration you wish to appeal, you may do so to this office within 90 days of the IDA's action.

I emphasize that the remand in no way indicates that the IDA erred in any aspect of the actions. Rather, it is accomplished in an effort to afford you the full benefits of the administrative process. As this is a remand, it is not final administrative action and does not exhaust administrative remedies. That said, if you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil).

Sincerely

(b) (6)

Diane M. Boyle  
Deputy General Counsel

Copy to:  
IDA



UNITED STATES MARINE CORPS  
MARINE CORPS AIR STATION  
BEAUFORT, SOUTH CAROLINA 29904-5001

IN REPLY REFER TO  
5720  
SJA  
20 Mar 20

Mr. Henry R. Smith

(b) (6)

Subj: FREEDOM OF INFORMATION ACT APPEAL DON-USMC-2020-005982

Encl: Original Request

Dear Mr. Smith,

This letter is in response to your Freedom of Information Act (FOIA) Appeal dated March 17, 2020 in which you sought to appeal your denial of access to Marine Corps Air Station (MCAS) Beaufort.

Your appeal was received by this office on March 18, 2020 with the assigned FOIA tracking number DON-USMC-2020-005982.

Your appeal has been denied as you're seeking to appeal the determination made by the Security Manager, not the determination made under the FOIA. To appeal to the Security Manager, please mail a detailed letter stating the reason(s) for your appeal to Commanding Officer, ATTN: SECURITY MANAGER, P.O. BOX 55010, Beaufort, South Carolina, 29904. Include any supporting documentation to assist in the appeal process.

You have the right to seek assistance and/or dispute resolution services from the Marines Corps FOIA Public Liaison, Ms. Sally Hughes, at [hgmcfia@usmc.mil](mailto:hgmcfia@usmc.mil) or (703)614-4008, and/or the Department of Navy FOIA Public Liaison at [donfoiapublicliason@navy.mil](mailto:donfoiapublicliason@navy.mil) or (703)697-0031. You may also contact the Office of Government Information Services for assistance and/or dispute resolutions at [ogis@nara.gov](mailto:ogis@nara.gov) or 1-877-684-6448. For more information about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

Sincerely,

(b) (6)

R. W. KORGES  
Captain, U.S. Marine Corps  
Deputy Staff Judge Advocate  
Deputy Freedom of Information  
Act Officer

# DON-USMC-2020-005982 Appeal Details

Clock Days: 3

Case Phase: Evaluation Case Status: Final Preparation of Response Due Date: 04/14/2020

## Requester Information

Requester	Henry R Smith
Organization	Haskell
Requester Has Account	No
Created On Behalf Of	
Email Address	
Phone Number	9127778183
Fax Number	9122283414
Address	
City	
State/Province	
Zip Code/Postal Code	
Tracking Number	DON-USMC-2020-005982
Submitted Date	03/17/2020
Received Date	03/17/2020
Last Assigned Date	03/17/2020
Assigned To	(b) (6) (Marine Corps Air Station Beaufort SC)
Last Assigned By	(b) (6) (Marine Corps Air Station Beaufort SC)
Appeal Track	

## Original Request Information

Tracking Number	DON-USMC-2020-002443
Requester	Henry R Smith
Date Submitted	12/03/2019
Request Description	I work for a subcontractor of the Haskell Company, which has been contracted to perform construction work on hanger P464 at MCAS-Beaufort, SC. My application for base access was denied. My employer would like to appeal the denial. Please send the information that was used as a reason for my denial of base access so that my employer may appeal the decision.
Request Phase	Closed
Request Track	Simple
Final Disposition	Full Grant

## Closure Information

Closed Date	
Disposition	Closed for Other Reasons
Additional Disposition	Other
"Other" Disposition	Moot
Exemptions Used	



**Statutes Used****Subtypes Used**

## Appeal Handling

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**Requester Info Available to the Public?**

No ▼

**Appeal Track**

▼

**Fee Category**

N/A

**Request Type**

FOIA

**Acknowledgement Sent Date****Litigation**

No ▼

**5 Day Notifications**

## Basis for Appeal

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20/2000

Appealing the denial

**Has Description Been Modified?****Description Available to the Public?**

No ▼

**Short Description****Based on Fee Waiver****Based on Expedited Processing**

## Attached Supporting Files

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**Attachments Available to the Public**

No ▼

**Attached File Name****Size (MB)****File Type****Remove**

Please wait while we fetch the requested data.

## Upload Supporting Files

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No supporting files have been uploaded.

**Drag files here**

**Upload Supporting Files**



UNITED STATES MARINE CORPS  
MARINE CORPS AIR STATION  
BEAUFORT, SOUTH CAROLINA 29904-5001

IN REPLY REPORT TO  
5720  
SJA

RECEIVE BY (PRINT): (b) (6)

DATE REC. 17 Mar 20

Henry R. Smith

(b) (6)

Signature: (b) (6)

Subj: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-USMC-2020-002443

Encl: (1) Security Manager Letter

Dear Mr. Smith,

This letter is in response to your Freedom of Information Act (FOIA) request dated 3 December 2019, in which you sought a copy of your background check that caused the denial of access to Marine Corps Air Station Beaufort.

Your request was received by this office on 8 January 2019 with the assigned FOIA tracking number DON-USMC-2020-002443 from the FOIA Coordinator at Marine Corps Air Station Beaufort, South Carolina.

Information in regards to your denial are addressed in the enclosed letter from the MCAS Beaufort Security Manager.

Your request was processed under the fee category "Other". As such you are entitled two hours of search time and 100 pages of copy for free. In this instance, since the response to your request does not exceed the minimum, there are no assessable fees associated with the processing of your request.

You are advised of your right to appeal this determination. Your appeal should be addressed to the Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe it should be granted. We recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

You also have the right to seek assistance and/or dispute resolution services from the Marines FOIA Public Liaison, Ms. Sally Hughes, at [hgmcfia@usmc.mil](mailto:hgmcfia@usmc.mil) or (703)614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil) or (703)697-0031. You may also contact the Office of Government Information Services for assistance and/or dispute resolution at [ogis@nara.gov](mailto:ogis@nara.gov) or 1-877-684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

(b) (6)

D. J. TRAIL  
Major, U.S. Marine Corps  
Staff Judge Advocate  
Freedom of Information Act Officer



UNITED STATES MARINE CORPS  
MARINE CORPS AIR STATION  
BEAUFORT, SOUTH CAROLINA 29904-5001

IN REPLY REFER TO  
5510  
SEC  
10 Jan 20

From: Security Manager, Marine Corps Air Station Beaufort  
To: Mr. Henry R. Smith  
Via: Privacy Act Coordinator, Marine Corps Air Station Beaufort  
Subj: PRIVACY ACT REQUEST FOR HENRY R. SMITH

(b) (6)

SOIA - gov-

I made copies  
and the letter is  
my appeal letter.

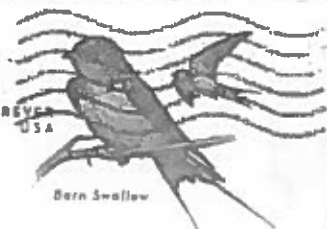
To whom it may concern:

(b) (6)

Henry R. Smith  
108 Stillwater Rd.  
Bloomington, Ga.  
31302

JACKSONVILLE FL 320

04 MAR 2020 PM 4 Forever  
USA



Judge Advocate General (code 14)  
1322 Patterson Avenue SE, Suite 3000  
Washington Navy Yard, DC 20374-5060

20374-





DEPARTMENT OF THE NAVY  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

NOV - 5 2019

REGULAR U.S. MAIL

Ms. Janet Devinney  
Above Innovations LLC  
PO Box 60992  
Potomac, MD 20859

SUBJECT: YOUR FREEDOM OF INFORMATION ACT APPEAL  
DON-NAVY-2020-001029

Dear Ms Devinney:

This letter responds to your undated Freedom of Information Act (FOIA) appeal, received in this office on October 31, 2019. It has been assigned FOIAonline appeal number DON-NAVY-2020-001029.

You have appealed the failure of Naval Sea Systems Command, the Initial Denial Authority (IDA), to take final action on your original FOIA request dated July 14, 2019. Your original request sought records pertaining to a particular contract. Personnel from my office coordinated your appeal with the IDA's FOIA office. We have determined that the IDA continues to process your original request. We also have determined that the IDA is out of time under the FOIA.

Accordingly, your appeal is granted. The IDA, by copy of this letter, directed to process your request forthwith. If, upon receipt of final action by the IDA, you wish to appeal, you may do so to this office within 90 days of the date of the IDA action.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or christopher.a.julka@navy.mil.

Sincerely,

(b) (6)

Richard D. Zeigler  
Assistant to the General Counsel

Copy to:  
IDA



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

JUN 11 2019

Via Regular U.S. Mail

Tom Buchele  
Counsel, Earthrise Law Center  
Lewis & Clark Law School  
10015 SW Terwilliger Blvd  
Portland, OR 97219-7799

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2019-006994

Dear Mr. Buchele:

I am responding to subject April 30, 2019 Freedom of Information Act (FOIA) appeal, received in this office on May 17, 2019.

I have coordinated this matter with FOIA staff and the Staff Judge Advocate's Office at Commander, U.S. Pacific Fleet. The IDA has coordinated the matter, separately, with the U.S. Forest Service and other interested agencies and activities. After a long process of coordination, the IDA has determined that additional search must be completed and the IDA has undertaken that search. Because the search and the review of any records that may be found may impact those records that are currently under review in the appeal process, we have determined that the best action at this time is to remand the entire matter to the IDA for action. This will ensure an even more thorough search than was at first completed and a consistent review of all responsive records. The IDA will notify you of the DON's decision on how best to proceed once that decision is made.

Accordingly, I have closed the appeal and have remanded the matter, by copy of this letter, to the IDA as a request to be coordinated with appropriate agencies and activities in order to ensure proper action on your request.

Sincerely,

(b) (6)

Richard D. Zeigler  
Assistant to the General Counsel

Copy to:  
IDA





DEPARTMENT OF THE NAVY  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

Via E-mail

MAR 05 2020

Mr. Anthony Lauzon  
E-mail Address: 81883-68574290@requests.muckrock.com

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2020-004931

Dear Mr. Lauzon:

This letter responds to your February 18, 2020, Freedom of Information Act (FOIA) appeal, received in this office on February 21, 2020. It has been assigned FOIAonline appeal number DON-NAVY-2020-004931.

You appealed from the action of the Naval Information Warfare Center Pacific (NIWC Pacific) (the Initial Denial Authority (IDA)) on your original FOIA request related to the "DARPA Restoring Active Memory (RAM) Project. The IDA provided you with a final action, including records, but redacted or withheld information under certain FOIA exemptions. In your appeal, you appear to object to at least some of redactions/withholdings made by the IDA.

When making an appeal, a FOIA requester must "clearly identify the determination that is being appealed" in order for this appeal to be perfected. Here, I have been unable to understand any aspect of the appeal. You mention that "several exemption 4 clauses were present," but you fail to set forth a proper basis upon which you appeal the application of exemption 4. Do you take exception to all redactions and withholdings, or to just some and, if just some, which ones? I cannot determine, either, what your argument is with respect to the IDA's application of the FOIA to your request.

For the reasons set forth, above, I have determined that your appeal is unperfected. Accordingly, it is moot and has been closed. If you wish to appeal the IDA's action in this matter, please ensure that you set forth clearly the basis or bases of your appeal, and also that you identify the parts of the IDA's action to which you object.

This determination is purely administrative in nature. Your appeal has not yet reached the appellate authority because it was unperfected and must be clarified so that she will be able to understand your appeal and make an informed decision. Therefore, you have not yet exhausted your administrative remedies. If you wish to appeal further, you must do so within 90 calendar days of this action.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at (703) 697-0031, or [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil).

Sincerely,

(b) (6)

Richard D. Zeigler  
Assistant to the General Counsel

Copy to: IDA

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** (b) (6) [CIV USN NAVFAC MIDLANT NOR \(USA\)](#); (b) (6) [CIV USN NAVFAC MIDLANT NOR \(USA\)](#); (b) (6) [CIV USN \(USA\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** RE: Freedom of Information Act (FOIA) Request DON-NAVY-2020-006726  
**Date:** Wednesday, April 29, 2020 7:52:01 AM

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Ms. Santos:

I am in receipt of your FOIA appeal, which arises from your request as set forth in the attachment you provided with your email. Upon receipt, I coordinated this matter with the FOIA staff for Naval Facilities Engineering Command (the Initial Denial Authority, or IDA). The IDA has determined that, in light of the additional information you have provided, reconsideration is the appropriate course of action. Accordingly, I hereby remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider and take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Tuesday, April 28, 2020 2:43 PM  
**To:** Zeigler, Richard D CIV USN (USA) (b) (6) [navy.mil](#); (b) (6) [CIV USN \(USA\)](#) <(b) (6) [navy.mil](#)>  
**Cc:** (b) (6) [CIV USN NAVFAC MIDLANT NOR \(USA\)](#) <(b) (6) [navy.mil](#)>; (b) (6) [CIV USN NAVFAC MIDLANT NOR \(USA\)](#) (b) (6) [navy.mil](#)>  
**Subject:** [Non-DoD Source] FW: Freedom of Information Act (FOIA) Request DON-NAVY-2020-006726

FOIA APPEAL

Good afternoon, you indicated the Navy could not locate the responsive documents, however a simple Google search provided the following information below. The POC is (b) (6) navy.mil. We respectfully appeal the Navy failure to conduct an adequate search. Thank you

Rose

Rose Santos  
FOIA Group, Inc.  
Tel: (b) (6)

**FBO DAILY - FEDBIZOPPS ISSUE OF JULY 17, 2019 FBO #6445  
SOLICITATION NOTICE**

## **Z -- NUWC B1319 Mezzanine Renovation**

**Notice Date**

7/15/2019

**Notice Type**

Combine Synopsis/Solicitation

**NAICS**

236220 — Commercial and Institutional Building Construction

**Contracting Office**

Naval Activities Building #1 Newport RI 02841

**ZIP Code**

02841

**Solicitation Number**

N4008519R4646

**Response Due**

8/16/2019

**Point of Contact**

(b) (6) contract specialist, Phone (b) (6)

**E-Mail Address**

(b) (6) navy.mil

**Small Business Set-Aside**

N/A

**Description**

THIS IS AN 8(A) MACC SOLICITATION OPEN ONLY TO 8(A) CONTRACTORS LISTED ON THE REQUEST FOR PROPOSAL (RFP) This project focuses on repairing and replacing the interior finishes and upgrading the lighting for the existing 1,300 square foot conference room #M01, located in Building 1319, at the Naval Undersea Warfare Center (NUWC), Newport, Rhode Island. The contractor shall provide all tools, labor, equipment, qualified supervision, and transportation as required to

perform the actions stated in the attached Statement of Work (Attachment 9), Drawings and Specifications. NOTE: THIS NOTICE WAS NOT POSTED TO FEDBIZOPPS ON THE DATE INDICATED IN THE NOTICE ITSELF (15-JUL-2019); HOWEVER, IT DID APPEAR IN THE FEDBIZOPPS FTP FEED ON THIS DATE. PLEASE CONTACT 877-472-3779 or fbo.support@gsa.gov REGARDING THIS ISSUE.

**Web Link**

[Link To Document](https://www.fbo.gov/spg/DON/NAVFAC/N62472NP/N4008519R4646/listing.html)

(<https://www.fbo.gov/spg/DON/NAVFAC/N62472NP/N4008519R4646/listing.html>)

**Place of Performance**

*Address:* Naval Station Newport, RI

*Zip Code:* 02841

*Country:* US

**From:** no-reply@foiaonline.gov [mailto:no-reply@foiaonline.gov]

**Sent:** Tuesday, April 28, 2020 12:34 PM

**To:** FOIA GROUP <foia@foia.com>

**Cc:** (b) (6) navy.mil; (b) (6) navy.mil

**Subject:** Freedom of Information Act (FOIA) Request DON-NAVY-2020-006726

Good Afternoon Ms. Santos,

Please find Naval Facilities Engineering Command, Mid-Atlantic (NAVFAC MIDLANT) correspondence attached,

Thank you.

V/R

(b) (6), Program Analyst

FOIA Coordinator/Privacy Act Coordinator

Assistant Records Manager

Command Services Office, BD522

NAVFAC Mid-Atlantic

9324 Virginia Avenue

Bldg Z-140, Room 117

Norfolk VA 23511

☎ (b) (6)

☎ DSN (b) (6)

✉ E-Mail: (b) (6) [navy.mil](mailto:(b)(6)@navy.mil)

~~~~~

Mailing address for United States Postal Service (USPS) is:

ATTN FOIA COORDINATOR

COMMANDING OFFICER

NAVFAC MIDLANT

9324 VIRGINIA AVE

NORFOLK, VA 23511

Mailing address for Federal Express (FedEx) and United Postal Service (UPS) is:

Person: FOIA COORDINATOR

Company/Organization: NAVFAC MIDLANT

Street address: 9324 Virginia Ave.

Additional address info: BLDG Z-140, ROOM 117

City/State/Zip: Norfolk, VA 23511

"NOTICE: FOR OFFICIAL USE ONLY (FOUO) - this transmission may contain material covered by the Privacy Act of 1974 and should be viewed only by personnel having an official "need to know". If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the content of this information is prohibited. If you have received this communication in error, please notify me immediately by email and delete the original message."

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** [Julka, Christopher A CIV USN DONCIO WASHINGTON DC \(USA\)](#); (b) (6) [CIV USN \(USA\)](#); (b) (6) [CIV USN NAWCTSD \(USA\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** REMAND OF FOIA APPEAL -- FOIA Request DON-NAVY-2020-001196 Modified  
**Date:** Thursday, April 30, 2020 2:25:20 PM

---

Ms. Santos:

I am in receipt of your FOIA appeal, which arises from your request as set forth in the FOIAOnline email at the bottom of this email chain. Upon receipt, I coordinated this matter with the FOIA staff for NAWCTSD (the Initial Denial Authority, or IDA). While fully engaged in the processing of your request, clearly the IDA is out of time. Accordingly, I hereby grant the appeal and remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email). Note that, because this matter may involve third party interests, it may take longer to process than the standard FOIA request.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Tuesday, April 21, 2020 2:51 PM  
**To:** Julka, Christopher A CIV USN CHINFO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>; Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>  
**Subject:** [Non-DoD Source] RE: FOIA APPEAL --- FOIA Request DON-NAVY-2020-001196 Modified

[FOIA APPEAL](#)

[We have never received any communication from the agency concerning this request. Therefore](#)

please accept this appeal for the agency to failure to process in a timely manner in accordance with governing regulations. Thank you

Rose Santos

FOIA Group, Inc.

Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]

**Sent:** Tuesday, December 31, 2019 3:22 PM

**To:** FOIA GROUP <foia@foia.com>

**Subject:** FOIA Request DON-NAVY-2020-001196 Modified

The FOIA request - DON-NAVY-2020-001196 has been supplemented with additional supporting files. Additional details for this item are as follows:

- Tracking Number: DON-NAVY-2020-001196
- Requester: Rose Santos
- Submitted Date: 11/06/2019
- Description: [Reference FGI# 19-65374] Relevant to NAVAIR # N6134018C0019 we seek a copy of (1) awarded contract with SOW/PWS, and modifications P00001, P00002, P00003, P00004, P00005, P00006, P00007, P00008, P00009, P00010, to present

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** (b) (6) [CIV USN NAVAL SURF WAR CENT \(USA\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** FW: NavSea? FOIA APPEAL FOIA Request DON-NAVY-2019-000894 Modified  
**Date:** Tuesday, December 17, 2019 7:51:04 AM

---

Ms Santos:

Pls see my email, below. As I cannot determine if this is an appeal (i.e., it is not perfected) and, if it is, it likely is untimely, I am closing it as moot.

If you wish to make an appeal of any request, you may do so in accordance with directions given by the IDA or, if the IDA has failed to respond to your request within FOIA's time limits, by direct appeal to this office.

Again, this "appeal," such as it is, is closed as moot.

V/R, RDZ

---

Ms. Santos:

Pls see the below correspondence from OJAG to NAVSEA concerning this matter. It was forwarded to me, as OGC would be the appellate authority if, in fact, this is an appeal. That is the first questions--is this in fact an appeal? If so, on what basis are you appealing? Finally, if it is an appeal, it would appear to be untimely, as the IDA response was dated 10 July 19, and the appeal was submitted on 31 Oct 19--well past the allowed 90 days within which to appeal. Before we proceed further, would you please let me know what you intend here and, if you intend an appeal, provide a basis for the appeal as well as an explanation as to why it is not untimely?

Thank you.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

-----Original Message-----

**From:** (b) (6) CIV USN (USA) <(b) (6)@navy.mil>  
**Sent:** Friday, December 6, 2019 3:31 PM  
**To:** (b) (6) CIV USN (US) <(b) (6)@navy.mil>  
**Cc:** (b) (6) Maj OJAG, Code 14 <(b) (6)@navy.mil>  
**Subject:** NavSea? FOIA APPEAL FOIA Request DON-NAVY-2019-000894 Modified

Good Afternoon Ms. Hamlin,

See the below. Do you know what records the requester is looking for? It seems like it might be contracts/commercials. If so we will send this one over to OGC.



The FOIA request - DON-NAVY-2019-000894 has been supplemented with additional supporting files. Additional details for this item are as follows:

- \* Tracking Number: DON-NAVY-2019-000894
- \* Requester: Rose Santos
- \* Submitted Date: 10/31/2018
- \* Description: [Reference FGI# 18-59622] Relevant to NAVAL SEA SYSTEMS COMMAND N0017417SN043 for 57mm High Explosive-Point Detonating Cartridges, we seek [1] copy of the list of companies that submitted responses to this Sources Sought notice and [2] copies of the Business Clearance Memorandum or Source Selection Evaluation notes

V/r

(b) (6)

## **Zeigler, Richard D CIV USN (USA)**

---

**From:** Zeigler, Richard D CIV USN (USA)  
**Sent:** Thursday, November 7, 2019 12:38 PM  
**To:** 'FOIA GROUP'  
**Cc:** Zeigler, Richard D CIV USN (USA); (b) (6) CIV AD, 11.7; (b) (6) CIV USN OGC WASHINGTON DC (USA)  
**Subject:** DON-NAVY-2020-000656 -- APPEAL OF NAWCAD FAILURE TO PROVIDE FINAL IDA ACTION  
**Signed By:** (b) (6) navy.mil

Mr. Stachewicz:

I have coordinated with the IDA's FOIA office and determined that personnel from that office are diligently reviewing records responsive to your request. I have confirmed that those personnel have informed you about the number of records involved and that they are processing them conscientiously. Nevertheless, the IDA is out of time under the FOIA. Accordingly, your appeal is hereby granted. By copy of this email, the IDA is directed to proceed forthwith to provide final IDA action on your request.

Please note that this action concerns only the issue of time. It does not concern any other aspect of your request or appeal.

If, upon receipt of final IDA action, you wish to appeal, you may do so to this office, provided you submit your appeal within 90 days of the IDA action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** (b) (6) <[REDACTED]@CIV.USN.NAVAL.SURF.WAR.CENT.(USA)>  
**To:** Zeigler, Richard D <[REDACTED]@CIV.USN.(USA)>  
**Cc:** (b) (6) <[REDACTED]@CIV.USN.COMNAVSEASYS.COM.(US)>  
**Subject:** FW: 2017 008454/FGI 53505 EMAIL 21 - FINAL  
**Date:** Friday, May 22, 2020 11:09:33 AM

---

The request is satisfied.

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Friday, May 22, 2020 11:06 AM  
**To:** (b) (6) <[REDACTED]@CIV.USN.NAVAL.SURF.WAR.CENT.(USA)> <(b) (6) <[REDACTED]@navy.mil>>  
**Subject:** [Non-DoD Source] RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Yes were good, thank you

Rose

---

**From:** (b) (6) <[REDACTED]@CIV.USN.NAVAL.SURF.WAR.CENT.(USA)> [mailto:(b) (6) <[REDACTED]@navy.mil>]  
**Sent:** Friday, May 22, 2020 11:05 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** FW: 2017 008454/FGI 53505 EMAIL 21 - FINAL

In order to close out this request and the appeal I need to know that you are satisfied that your request has been answered.  
Please advise.

Thank you,

(b) (6)

---

**From:** (b) (6) <[REDACTED]@CIV.USN.NAVAL.SURF.WAR.CENT.(USA)>  
**Sent:** Thursday, May 21, 2020 8:46 AM  
**To:** 'FOIA GROUP' <foia@foia.com>  
**Subject:** RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Are you satisfied that the subject FOIA case has been completed? Do you still wish to pursue appeal rights?

Sorry to keep asking but I need to make sure you are satisfied and this case is considered closed.

(b) (6)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Thursday, May 21, 2020 8:27 AM  
**To:** (b) (6) <[REDACTED]@CIV.USN.NAVAL.SURF.WAR.CENT.(USA)> <(b) (6) <[REDACTED]@navy.mil>>  
**Subject:** [Non-DoD Source] RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Thank you

---

**From:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA) [mailto:(b) (6)@navy.mil]  
**Sent:** Thursday, May 21, 2020 8:16 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Email 1 contained the original contract. I included that contract in Email 2. So there is no Email 1 and the chain starts with Email 2. Emails 2 through 21 contain the contract and all modifications and delivery orders.

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Thursday, May 21, 2020 8:00 AM  
**To:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA) <(b) (6)@navy.mil>  
**Subject:** [Non-DoD Source] RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

We never received #1 email, can you resend that one, thanks

---

**From:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA) [mailto:(b) (6)@navy.mil]  
**Sent:** Thursday, May 21, 2020 6:53 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Mr. Stachewicz,

Are you satisfied that the subject FOIA case has been completed? Do you still wish to pursue appeal rights?

Respectfully,

(b) (6)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Tuesday, May 19, 2020 8:03 AM  
**To:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA) <(b) (6)@navy.mil>  
**Subject:** [Non-DoD Source] RE: 2017 008454/FGI 53505 EMAIL 21 - FINAL

Thank you, we never received a #1?

---

**From:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA) [mailto:(b) (6)@navy.mil]  
**Sent:** Tuesday, May 19, 2020 6:30 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** FW: 2017 008454/FGI 53505 EMAIL 21 - FINAL

---

**From:** (b) (6) CIV USN NAVAL SURF WAR CENT (USA)

**Sent:** Wednesday, February 19, 2020 7:41 AM

**To:** 'FOIA GROUP' <[foia@foia.com](mailto:foia@foia.com)>

**Subject:** 2017 008454/FGI 53505 EMAIL 21 - FINAL

This is the final email. Letter to follow shortly.

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6); [CDR USN NAVMED WEST SAN CA \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Wednesday, March 25, 2020 1:19:55 PM  
**Attachments:** [Arcand Incoming FOIA.pdf](#)

---

Mr. Arcand:

I am in receipt of your FOIA appeal, attached above.

Upon receipt, I coordinated your appeal with Navy Medicine West, the Initial Denial Authority (IDA). As a result of our discussions, the IDA has agreed to reconsider the action taken on your request. Accordingly, I hereby remand the matter to the IDA, by copy of this email, for reconsideration.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider the action in light of all circumstances, including the issues you raise in your letter of appeal.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA. You will retain your right to appeal to this office upon your final action by the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV USN NAVFAC SE JAX FL \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Thursday, June 11, 2020 2:24:27 PM  
**Attachments:** [FOIA Appeal - ARTEC Group.pdf](#)

---

Mr. Geller:

I am in receipt of your FOIA appeal. Upon receipt, I coordinated this matter with the FOIA staff and Office of Counsel of Naval Facilities Engineering Command Southeast (the Initial Denial Authority, or IDA). The IDA has determined that reconsideration is the appropriate course of action. Accordingly, I hereby remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider and take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [\(FRC East OGC\) CIV USN FRC EAST \(USA\)](#); (b) (6)  
[CIV USN FLTREADCEN ECP NC \(US\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Monday, March 23, 2020 2:38:40 PM  
**Attachments:** [barrowapp.pdf](#)

---

Mr. Barrow:

I am in receipt of your FOIA appeal arising from FOIA request DON-NAVY-2020-002444.

Upon receipt, I coordinated your appeal with Fleet Readiness Center East, the Initial Denial Authority (IDA). As a result of our discussions, the IDA has agreed to reconsider the action taken on your request. Accordingly, I hereby remand the matter to the IDA, by copy of this email, for reconsideration.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider the action in light of all circumstances, including the issues you raise in your letter of appeal.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)





DEPARTMENT OF THE NAVY  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

June 29, 2020

Via e-mail to (b) (6)

Griselda Bramham

(b) (6)

Dear Ms. Bramham:

You appealed from the February 12, 2020 action of Marine Corps Installations West/Marine Corps Base Camp Pendleton, the Initial Denial Authority (IDA), on your January 24, 2020 Freedom of Information Act (FOIA) request for a copy of a certain lareny report you identify in your request as Report Number 19-02566.

The IDA properly referred part of your request to various Army activities because those activities, and not the IDA, have cognizance over any records that may potentially be responsive to separate aspects of your request. I note that the activities to which the request was referred are, in fact, U.S. government entities (the IDA misstated this fact). The IDA also released responsive records (for those aspects of the request that produced responsive records that fall under the cognizance of the IDA) to you, and indicated in his letter that he had redacted personally identifiable information in accordance with FOIA exemption (b)(7)(C) (5 U.S.C. §552(b)(7)(C)). The IDA also advised you of your administrative appeal rights.

Upon receipt of your appeal, personnel from my office coordinated with the IDA's FOIA office and determined that, in fact, no redactions had been made to the records released to you. Therefore, the IDA made a full release to you of those responsive records that fall under the IDA's cognizance. As a result, the IDA has agreed to reconsider the matter to reach a definitive conclusion on it. Accordingly, I hereby remand the matter to the IDA for reconsideration and, by copy of this decision, direct the IDA to render a final decision forthwith.

I note, as an administrative matter, that a FOIA request such as yours is a private, not official, matter, and that any such request and appeal related thereto should not be sent via official correspondence avenues.

As this is not a final agency action, the IDA will also provide appeal rights in his letter. Should you wish to avail yourself of the right of appeal, you may do so within 89 days of the date of the IDA letter. If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or christopher.a.julka@navy.mil.

Sincerely,

/s/ *Richard D. Zeigler*

Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

Copy to: IDA

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6); [CIV USN OGC WASH DC \(USA\)](#); (b) (6); [CIV USN COMNAVFACENGCOM DC \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Tuesday, June 9, 2020 8:24:26 AM

---

Mr. Brooks:

I am in receipt of your FOIA appeal. Upon receipt, I coordinated this matter with the FOIA staff and Office of Counsel of Naval Facilities Engineering Command (the Initial Denial Authority, or IDA). The IDA has determined that reconsideration is the appropriate course of action. Accordingly, I hereby remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider and take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

From: [Zeigler, Richard D.CIV USN \(USA\)](#)  
To: FOIA GROUP  
Cc: [Zeigler, Richard D.CIV USN \(USA\)](#) (b) (6) [CIV USN SWRMC \(USA\)](#) (b) (6) [CIV USN \(USA\)](#) (b) (6) [CIV USN NSWC CRD BDA MD \(USA\)](#) (b) (6) [CIV USN NAVSUFWARCEN COR CA \(USA\)](#)  
Subject: FOIA GROUP FOIA APPEALS -- REMANDED  
Date: Tuesday, July 28, 2020 1:20:39 PM

---

Ms. Santos:

I am in receipt of the FOIA appeals listed here:

|  | Tracking Number                      | Type   | Track | Requester   | Assigned   | Due        | Status                   | Detail |
|--|--------------------------------------|--------|-------|-------------|------------|------------|--------------------------|--------|
|  | <a href="#">DON-NAVY-2020-010521</a> | Appeal | N/A   | Rose Santos | 07/27/2020 | 08/24/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010520</a> | Appeal | N/A   | Rose Santos | 07/27/2020 | 08/24/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010116</a> | Appeal | N/A   | Rose Santos | 07/20/2020 | 08/17/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010117</a> | Appeal | N/A   | Rose Santos | 07/20/2020 | 08/17/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010115</a> | Appeal | N/A   | Rose Santos | 07/20/2020 | 08/17/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010067</a> | Appeal | N/A   | Rose Santos | 07/20/2020 | 08/17/2020 | Assignment Determination |        |
|  | <a href="#">DON-NAVY-2020-010068</a> | Appeal | N/A   | Rose Santos | 07/20/2020 | 08/17/2020 | Assignment Determination |        |

Note that these appeal numbers correspond to appeals created in response to the emails you sent this week. In each you included only a request number, so the appeal numbers above reflect the FOIAonline appeal number corresponding to your various request numbers from your emails.

Upon receipt, I coordinated these matters with the FOIA staff for the Initial Denial Authority, or IDA, of each. I have determined that in each instance, the IDA is out of time. Accordingly, I hereby grant the appeals insofar as they pertain to time, and remand them, by copy of this email, to the IDAs, and direct the IDAs to act upon your requests forthwith (typically within 30 days of this email).

Your appeals are closed.

I note that this remand does not imply any error by the IDAs. Rather, it is made for the sole purpose of allowing the IDAs to take action on your requests. Note that if you consider the IDA's final action to be adverse in any case, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDAs will contact you directly with any further action, and if you have questions, you should contact the IDAs.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV USN \(USA\)](#)  
**Subject:** FOIA APPEALS PERTAINING TO LAKEHURST (2020-010787 and 2020-010788)  
**Date:** Tuesday, August 4, 2020 9:41:18 AM

---

Ms. Santos:

I am in receipt of subject FOIA appeals, which arise from your request as set forth in the FOIAOnline email at the bottom of this email chain (but see August 3, 2020 email from Mr. Julka explaining that each now has a different request number). Upon receipt, I coordinated this matter with the FOIA staff for NAWCAD Lakehurst (the Initial Denial Authority, or IDA). I have determined that the IDA is out of time on both requests. Accordingly, I hereby grant the appeals insofar as they pertain to time, remand them, by copy of this email, to the IDA, and direct the IDA to act upon your requests forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>  
**Sent:** Monday, August 3, 2020 4:14 PM  
**To:** Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>; FOIA GROUP <foia@foia.com>  
**Subject:** RE: FOIA APPEALS PERTAINING TO LAKEHURST

Ms. Santos,

We have found requests DON-Navy-2020-007172 or DON-Navy-2020-007173. They have new tracking numbers: DON-Navy-2020-009229 and DON-Navy-2020-009228, respectively. They have been reassigned to NAVAIR AD Lakehurst, which appears to have responsive records. If you have any questions or concerns, do not hesitate to let me know.

Regards,  
Christopher Julka  
Freedom of Information Act (FOIA)  
Policy Coordinator & Public Liaison  
Department of the Navy  
Office of the Chief Information Officer (OCIO)  
christopher.a.julka@navy.mil  
(703) 697-0031

---

**From:** Zeigler, Richard D CIV USN (USA) (b) (6)@navy.mil>

**Sent:** Tuesday, July 28, 2020 1:27 PM

**To:** FOIA GROUP <foia@foia.com>

**Cc:** Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>; Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>

**Subject:** FOIA APPEALS PERTAINING TO LAKEHURST

Ms. Santos:

While I was able to locate 2020-007171 in FOL, I was not able to locate 2020-007172 or 007173. Yet, below, you show in your emails that FOL has acknowledged receipt of THESE EXACT NUMBERS. When I search under "Rose Santos," for the time period noted in the requests you identify, below, I get:

|                                      |                          |             |            |            |                   |                          |  |
|--------------------------------------|--------------------------|-------------|------------|------------|-------------------|--------------------------|--|
| <a href="#">2020-006974</a>          | Final Disposition Notice | Rose Santos | 04/27/2020 | 04/27/2020 | Richard D Zeigler | Closed                   |  |
| <a href="#">DON-NAVY-2020-006974</a> | Appeal                   | Rose Santos | 04/22/2020 | 05/20/2020 | Richard D Zeigler | Closed                   |  |
| <a href="#">DON-NAVY-2020-006975</a> | Appeal                   | Rose Santos | 04/22/2020 | 05/20/2020 | Richard D Zeigler | Closed                   |  |
| <a href="#">DON-NAVY-2020-007163</a> | Request                  | Rose Santos | 04/27/2020 |            | (b) (6)           | Assignment Determination |  |
| <a href="#">DON-NAVY-2020-007169</a> | Request                  | Rose Santos | 04/27/2020 |            | (b) (6)           | Closed                   |  |
| <a href="#">DON-NAVY-2020-007171</a> | Request                  | Rose Santos | 04/27/2020 |            | (b) (6)           | Assignment Determination |  |
| <a href="#">DON-NAVY-2020-007176</a> | Request                  | Rose Santos | 04/27/2020 |            | (b) (6)           | Closed                   |  |
| <a href="#">DON-NAVY-2020-007266</a> | Final Disposition Notice | Rose Santos | 04/29/2020 | 04/29/2020 | Richard D Zeigler | Closed                   |  |
| <a href="#">DON-</a>                 | Request                  | Rose        | 05/01/2020 |            | (b) (6)           | Assignment               |  |

|                                      |                          |             |            |            |         |               |
|--------------------------------------|--------------------------|-------------|------------|------------|---------|---------------|
| <a href="#">NAVY-2020-007432</a>     |                          | Santos      |            |            | (b) (6) | Determination |
| <a href="#">DON-NAVY-2020-007489</a> | Final Disposition Notice | Rose Santos | 07/17/2020 | 07/17/2020 | (b) (6) | Closed        |

As you can see, 007171 is here, but not 007172 or 007173. So, even though you show in your email below that you received acknowledgements, the FOL system does not currently show the existence of these requests.

I coordinated this with Chris Julka, the FOIA Public Liaison, as well as with the FOIA personnel at Lakehurst. They, like me, could not locate these requests.

Therefore, I cannot create appeals, as I have no underlying request to support them. I created an appeal for 007171 (see 010521) and remanded it just today. However, I can do nothing further with the requests NOT appearing in FOIAonline at this time.

V/R, RDZ

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Saturday, July 25, 2020 2:50 PM  
**To:** Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>; Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>  
**Subject:** [Non-DoD Source] RE: FOIA APPEALS -- FOIA Request DON-NAVY-2020-007171 & DON-NAVY-2020-007172 & DON-NAVY-2020-007171 Submitted

Good afternoon, it has been 3 months and your agency still has not acknowledged the subject requests (3). Therefore, we hereby appeal the agency's arbitrary and capricious failure to process the request in accordance with the FOIA statutes. Thank you.

Rose Santos  
FOIA Group, Inc.  
Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]  
**Sent:** Monday, April 27, 2020 7:00 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** FOIA Request DON-NAVY-2020-007171 Submitted

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2020-007171
- Requester Name: Rose Santos
- Date Submitted: 04/27/2020
- Request Status: Submitted
- Description: [Reference FGI# 68462] Relevant to N0017814D7603 Order 4Y01, we seek [1] copy of

Order 4Y01 with SOW/PWS and all modifications

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2020-007172
- Requester Name: Rose Santos
- Date Submitted: 04/27/2020
- Request Status: Submitted
- Description: [Reference FGI# 68463] Relevant to N0017804D4024 Order 4Y02, we seek [1] copy of Order 4Y02 with SOW/PWS and all modifications

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2020-007173
- Requester Name: Rose Santos
- Date Submitted: 04/27/2020
- Request Status: Submitted
- Description: [Reference FGI# 68461] Relevant to N0017810D6325 Order 4Y01, we seek [1] copy of Order 4Y01 with SOW/PWS and all modifications

**From:** [FOIA GROUP](#)  
**To:** [Zeigler, Richard D CIV USN \(USA\)](#); [Julka, Christopher A CIV USN DONCIO WASHINGTON DC \(USA\)](#)  
**Subject:** [Non-DoD Source] RE: FOIA APPEAL -- FOIA Request DON-NAVY-2020-004698 Modified  
**Date:** Wednesday, July 15, 2020 3:32:08 PM

---

## FOIA APPEAL

We respectfully submit this appeal due to the agency failure to provide any status on the subject request. According to FOIAONLINE the request has never even been assigned yet, after 5 months. PLEASE process this appeal.

Rose

Rose Santos  
FOIA Group, Inc.  
Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]  
**Sent:** Tuesday, February 18, 2020 9:02 AM  
**To:** FOIA GROUP <foia@foia.com>  
**Subject:** FOIA Request DON-NAVY-2020-004698 Modified

The FOIA request - DON-NAVY-2020-004698 description has been modified. Additional details for this item are as follows:

- Tracking Number: DON-NAVY-2020-004698
- Requester: Rose Santos
- Submitted Date: **02/17/2020**
- Description: [Reference FGI# 66056] Relevant to N5005414D1408 we seek copies of the following: MOD P000009 including the Supplemental Agreement



**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV USN \(USA\)](#)  
**Subject:** RE: FOIA APPEAL RE: FOIA Request DON-NAVY-2020-007177  
**Date:** Monday, July 27, 2020 12:31:32 PM

---

Ms. Santos:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline email at the bottom of this email chain. Upon receipt, I coordinated this matter with the FOIA staff for NAVFACSW (the Initial Denial Authority, or IDA). I have determined that the IDA is out of time. Accordingly, I hereby grant the appeal insofar as it pertains to time, and remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Saturday, July 25, 2020 2:51 PM  
**To:** Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>; Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>  
**Subject:** [Non-DoD Source] RE: FOIA APPEAL RE: FOIA Request DON-NAVY-2020-007177

Good afternoon, it has been 3 months and your agency still has not acknowledged the subject request. Therefore, we hereby appeal the agency's arbitrary and capricious failure to process the request in accordance with the FOIA statutes. Thank you.

Rose Santos  
FOIA Group, Inc.

Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]

**Sent:** Monday, April 27, 2020 1:30 PM

**To:** FOIA GROUP <foia@foia.com>

**Subject:** FOIA Request DON-NAVY-2020-007177 Modified

The FOIA request - DON-NAVY-2020-007177 description has been modified. Additional details for this item are as follows:

- Tracking Number: DON-NAVY-2020-007177
- Requester: Rose Santos
- Submitted Date: 04/27/2020
- Description: [Reference FGI# 68452] Relevant to NAVFAC SOUTHWEST N6247318B1617, we seek [1] copy of the awarded contract & SOW/PWS

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV USN \(USA\)](#)  
**Subject:** RE: FOIA APPEAL - FOIA Request DON-NAVY-2020-006729 Submitted  
**Date:** Monday, July 27, 2020 12:33:19 PM

---

Ms. Santos:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline email at the bottom of this email chain. Upon receipt, I coordinated this matter with the FOIA staff for NAVFACSW (the Initial Denial Authority, or IDA). I have determined that the IDA is out of time. Accordingly, I hereby grant the appeal insofar as it pertains to time, and remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Saturday, July 25, 2020 3:00 PM  
**To:** Zeigler, Richard D CIV USN (USA) <(b) (6) navy.mil>; Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>  
**Cc:** (b) (6) CIV USN NAVFAC SW SAN CA (USA) (b) (6) navy.mil>  
**Subject:** [Non-DoD Source] RE: FOIA APPEAL - FOIA Request DON-NAVY-2020-006729 Submitted

Good afternoon, it has been 3 months and your agency still has not acknowledged the subject request. Therefore, we hereby appeal the agency's arbitrary and capricious failure to process the request in accordance with the FOIA statutes. Thank you.

Rose Santos

FOIA Group, Inc.

Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]

**Sent:** Tuesday, April 14, 2020 4:40 PM

**To:** FOIA GROUP <foia@foia.com>

**Subject:** FOIA Request DON-NAVY-2020-006729 Submitted

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2020-006729
- Requester Name: Rose Santos
- Date Submitted: 04/14/2020
- Request Status: Submitted
- Description: [Reference FGI# 68400] Relevant to NAVFAC SOUTHWEST contract including SOW/PWS awarded for “AEC FY18 P3677 KC46A ALTER B811 CORROSION CONTROL HANGAR”; the NAVY POC is (b) (6) Contract Specialist (b) (6) (b) (6) [navy.mil](#)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [FOIA GROUP](#)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV USN \(USA\)](#)  
**Subject:** RE: FOIA APPEAL RE: FOIA Request DON-NAVY-2020-007177  
**Date:** Monday, July 27, 2020 12:31:32 PM

---

Ms. Santos:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline email at the bottom of this email chain. Upon receipt, I coordinated this matter with the FOIA staff for NAVFACSW (the Initial Denial Authority, or IDA). I have determined that the IDA is out of time. Accordingly, I hereby grant the appeal insofar as it pertains to time, and remand the matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Saturday, July 25, 2020 2:51 PM  
**To:** Zeigler, Richard D CIV USN (USA) (b) (6) [navy.mil](#); Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA) <christopher.a.julka@navy.mil>  
**Subject:** [Non-DoD Source] RE: FOIA APPEAL RE: FOIA Request DON-NAVY-2020-007177

Good afternoon, it has been 3 months and your agency still has not acknowledged the subject request. Therefore, we hereby appeal the agency's arbitrary and capricious failure to process the request in accordance with the FOIA statutes. Thank you.

Rose Santos  
FOIA Group, Inc.

Tel: (b) (6)

**From:** admin@foiaonline.gov [mailto:admin@foiaonline.gov]

**Sent:** Monday, April 27, 2020 1:30 PM

**To:** FOIA GROUP <foia@foia.com>

**Subject:** FOIA Request DON-NAVY-2020-007177 Modified

The FOIA request - DON-NAVY-2020-007177 description has been modified. Additional details for this item are as follows:

- Tracking Number: DON-NAVY-2020-007177
- Requester: Rose Santos
- Submitted Date: 04/27/2020
- Description: [Reference FGI# 68452] Relevant to NAVFAC SOUTHWEST N6247318B1617, we seek [1] copy of the awarded contract & SOW/PWS

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** FW: Clarification requested - DON-NAVY-2020-004755  
**Date:** Monday, August 24, 2020 12:31:22 PM

---

APPEAL WITHDRAWN

---

**From:** (b) (6) CIV USN NUWC DIV KPT WA (USA) <(b) (6)@navy.mil>  
**Sent:** Monday, August 24, 2020 11:04 AM  
**To:** Zeigler, Richard D CIV USN (USA) <(b) (6)@navy.mil>  
**Cc:** (b) (6) CIV USN NUWC DIV KPT WA (USA) <(b) (6)@navy.mil>  
**Subject:** Fw: Clarification requested - DON-NAVY-2020-004755

---

**From:** FOIA GROUP <foia@foia.com>  
**Sent:** Monday, August 24, 2020 7:29 AM  
**To:** (b) (6) CIV USN NUWC DIV KPT WA (USA)  
**Cc:** Julka, Christopher A CIV USN DONCIO WASHINGTON DC (USA); (b) (6) CIV USN NUWC DIV KPT WA (USA)  
**Subject:** [Non-DoD Source] RE: Clarification requested - DON-NAVY-2020-004755

(b) (6)

Hello and thanks for the prompt response. Please cancel this appeal. Have a great day and stay safe.

Jeff

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6) [CIV](#) (b) (6) [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Wednesday, June 24, 2020 11:49:50 AM  
**Attachments:** [FOIA GLINCOSKY EEO APPEAL.pdf](#)

---

Mr. Glincosky:

I am in receipt of your FOIA appeal as set forth in the attachment. Upon receipt, I coordinated this matter with the FOIA staff for MCI East/Camp Lejeune (the Initial Denial Authority, or IDA) who agreed to reconsider the action taken in this case. Accordingly, I hereby remand the matter and, by copy of this email to the IDA, direct the IDA to reconsider your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider the action in light of all circumstances, including the issues you raise in your letter of appeal. Note that if you consider the IDA's action upon reconsideration to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)



**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6); (b) (6) [CIV USN \(USA\); Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL  
**Date:** Tuesday, April 7, 2020 1:11:36 PM  
**Attachments:** [v2\\_imj030920 FOIA.pdf](#)  
[FOIA.Pave-Tech.2019.11.26.RKH.pdf](#)

---

Mr. Ho:

I am in receipt of your FOIA appeal as set forth in the attachment. Upon receipt, I coordinated this matter with the FOIA staff for Naval Facilities Engineering Command, Southwest (the Initial Denial Authority, or IDA), who agreed to reconsider the action taken in this case. Accordingly, I hereby remand the matter and, by copy of this email to the IDA, direct the IDA to reconsider your request forthwith.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reconsider the action in light of all circumstances, including the issues you raise in your letter of appeal. Note that if you consider the IDA's action upon reconsideration to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6) [CIV](#) (b) (6) [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6) [CIV](#) (b) (6)  
**Subject:** Your FOIA Appeal of IDA action on your FOIA Request DON-USMC-2020-006211  
**Date:** Tuesday, September 29, 2020 2:54:37 PM  
**Attachments:** [20200928 - ARSF to Reg \(fnl\) 20-6211.pdf](#)  
[FOIA HOFFMAN TIME APP.docx](#)

---

Mr. Hoffman:

I am in receipt of subject FOIA appeal (attached), which arises from your request as set forth in the FOIAOnline. Upon receipt, I coordinated this matter with the FOIA staff for Headquarters Marine Corps (the Initial Denial Authority, or IDA). I have determined that the IDA provided you with a final response on September 28, 2020 (also attached). Accordingly, I hereby close the appeal as moot.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

June 29, 2020

Via email to (b) (6)

Elbridge Z. Smith  
Smith Himmelmann  
Topa Financial Center, Suite 311  
745 Fort Street  
Honolulu, HI 96813

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2020-008540

Dear Mr. Smith:

This letter responds to your Freedom of Information Act (FOIA) appeal of May 11, 2020, received in this office on June 2, 2020. You appeal the February 10, 2020, action of the Initial Denial Authority's (IDA), Marine Corps Base Hawaii, in response to your request. As noted, the IDA provided his final, substantive determination on February 10, 2020, and in his letter advised you of your right to appeal within 90 calendar days from the date of the letter. This advice is consistent with both FOIA and Department of Defense regulations as set forth at 32 CFR §286.11. See, <https://www.govinfo.gov/content/pkg/CFR-2019-title32-vol2/xml/CFR-2019-title32-vol2-part286.xml> In this case, there is no evidence that your appeal was submitted in a timely manner and, accordingly, it is rejected as untimely.

Sincerely,

(b) (6)

Diane M. Boyle  
Deputy General Counsel

Copy to:  
IDA

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6); [CIV USN COMNAVSEASYSCOM DC \(USA\)](#); (b) (6); [CIV USN COMNAVSEASYSCOM \(US\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** RE: DON-NAVY 2020-003091 Appeal  
**Date:** Friday, March 6, 2020 7:51:00 AM

---

Mr. Reaves:

As you know from (b) (6)'s email, below, the Initial Denial Authority for your request has undertaken another extensive search for responsive records. This was decided upon after coordination among this office, NAVSEA, and the IDA. All concerned agreed that a remand to the IDA and the IDA's reconsideration (in order to conduct a new search) was the course of action that best protected your rights under the FOIA. Accordingly, I hereby remand the matter, and, by copy of this email to NAVSEA (and from NAVSEA to the IDA), I direct the IDA to complete the processing of your request forthwith (typically within 20 working days of remand). I have closed your appeal.

If, following final action by the IDA upon this reconsideration, you wish to appeal, you may do so within 90 days of the IDA's final determination.

I note for the record that this remand is solely for the purposes of reconsideration by the IDA. It in no way should be construed to suggest that the IDA has erred in any aspect of the request processing.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

---

**From:** (b) (6) CIV USN COMNAVSEASYSCOM (US) <(b) (6)@navy.mil>  
**Sent:** Thursday, March 5, 2020 2:37 PM  
**To:** (b) (6)  
**Cc:** (b) (6) CIV USN COMNAVSEASYSCOM DC (USA) <(b) (6)@navy.mil>;  
Zeigler, Richard D CIV USN (USA) (b) (6)@navy.mil>  
**Subject:** DON-NAVY 2020-003091 Appeal

Good afternoon Mr. Reaves,

At the direction of Mr. Rich Zeigler, with the Navy FOIA Appeals office, I am following up with you regarding our continued search for responsive documents on the subject FOIA request. We wanted to keep you informed that we have gone back to do a secondary search for any asbestos records on the three ships. We have checked with the Industrial Operations Directorate again and they were unable to identify any other records within that office as responsive to your request. We also had our FOIA Coordinator at Naval Surface Warfare Center Panama City, the last location of the USS McINERNEY and the USS HALYBURTON before they were decommissioned, however they could not identify any asbestos records for either one of them. We are currently working with the FOIA Coordinator at the Puget Sound Naval Shipyard and Intermediate Maintenance Facility for the USS

RODNEY M DAVIS, the last know location of the ship before it was decommissioned. Their first search came back with no records and they are currently checking with the Records Manager to see if they have anything in their archived files. As soon as we get that search completed we will get you a final response to your appeal.

If you have any questions, please feel free to contact us.

Respectfully,

(b) (6)

Government Information Specialist

Naval Sea Systems Command

1333 Isaac Hull Ave, SE, Room 1E1110

Washington Navy Yard, DC 20376

Phone (b) (6) - Email (b) (6) [navy.mil](mailto:(b) (6)@navy.mil)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** FOIA APPEAL DON-NAVY-2020-009820 (ARISING FROM REQUEST DON-USMC-2020-007004)  
**Date:** Tuesday, July 28, 2020 2:55:46 PM  
**Attachments:** [FOIA APPEAL DON-USMC-2020-007004 .docx](#)  
[SlusherL \(RE5\) \(Highlighted\) Redacted.pdf](#)

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Ms. Slusher:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline number identified above. Upon receipt, I coordinated this matter with the FOIA staff for the Initial Denial Authority, or IDA. The IDA has agreed to reconsider your request, in light of the matters set forth in your appeal. Accordingly, I hereby remand this matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** FOIA APPEAL DON-NAVY-2020-009820 (ARISING FROM REQUEST DON-USMC-2020-007004)  
**Date:** Tuesday, July 28, 2020 2:55:46 PM  
**Attachments:** [FOIA APPEAL DON-USMC-2020-007004 .docx](#)  
[SlusherL \(RE5\) \(Highlighted\) Redacted.pdf](#)

---

Ms. Slusher:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline number identified above. Upon receipt, I coordinated this matter with the FOIA staff for the Initial Denial Authority, or IDA. The IDA has agreed to reconsider your request, in light of the matters set forth in your appeal. Accordingly, I hereby remand this matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith (typically within 30 days of this email).

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

September 18, 2020

Via email to (b) (6)

Lisa Slusher  
12 Menusa Drive  
Oceanside, CA 92058

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2020-012067

Dear Ms. Slusher:

This letter responds to your September 1, 2020, Freedom of Information Act (FOIA) appeal, received in this office on the same date via email. Your appeal has been assigned FOIAonline tracking number DON-NAVY-2020-012067.

You appealed from the action of the Commander, Marine Corps Installations West/Marine Corps Base Camp Pendleton, the Initial Denial Authority (IDA) on your FOIA request for records pertaining to an interview in which you and several other personnel participated. In response to your initial request, the IDA produced records responsive to the request, but you deemed that set of records to be incomplete. Upon remand by this office, the IDA was unable to find additional records, and you then made your September 1, 2020, appeal to this office.

Upon receipt of your appeal, this office coordinated with the IDA's FOIA Office. The IDA has agreed to reconsider this matter again. Accordingly, I hereby remand the matter to the IDA, by copy of this letter, for final action, as appropriate. Please note that this remand in no way implies that the IDA has erred in any aspect of the disposition of your FOIA request. It is made simply to permit the IDA to reconsider the request and take action, as appropriate. Also please note that if, upon receipt of the IDA's final action upon reconsideration, you believe you have received an adverse determination on the request, you may again appeal to this office, provided you do so within 90 days of the IDA's final action.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or christopher.a.julka@navy.mil.

Sincerely,

(b) (6)

Diane M. Boyle  
Deputy General Counsel

Copy to: IDA





**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

September 18, 2020

Via email to (b) (6)

Dr. Ahimsa Sumchai

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL (DON-NAVY-2020-012067)

Dear Dr. Sumchai:

I am responding to your Freedom of Information Act (FOIA) appeal arising from your FOIA request identified in FOIAonline as DON-NAVY-2020-011566. In your appeal, you assert that the Initial Denial Authority (IDA) in this case—the Base Realignment and Closure Program Management Office (“BRAC PMO”)—erred in denying your request for the expedited processing of your request.

By letter dated August 27, 2020, you submitted a FOIA request for information pertaining to Hunter’s Point, as follows:

*I am searching for specific documentation regarding the actions of Naval Facilities Command Base Realignment & Closure PRO [sic] West at the Hunters Point Naval Shipyard – an EPA designated federal Superfund site. (b) (6) is Director and (b) (6) is BRAC Environmental Coordinator. The specific search I wish to focus involves episodic releases of surface methane pockets at the Parcel E-2 landfill – and EPA designated federal Superfund Site. The landfill gas monitoring has detected methane in pockets greater than 50% volume in air. The Navy episodically releases the landfill gas into the atmosphere, potentially exposing nearby receptors. (b) (6) of the DTSC sent and [sic] email communication that included a law that shields the Navy from potential health and safety effects stemming from the landfill release. I would like all correspondence and documentation from January 2019 to July 2020 on the interval in which the landfill gases are being released.*

Your request included a request for expedited processing. You stated that your request for expedited processing was based on a public health emergency, that certain chemicals have been detected in workers and residents, and that the 94124 zip code has a high COVID-19 case rate. In denying your request for expedited processing on September 2, 2020, the IDA explained to you the basis and supporting statements upon which such a request must be made, and concluded that “your statements, on their own, do not provide the detailed information required to demonstrate that a basis exists for granting your expedited processing request.”

You, then, wrote an undated letter, received in this office on September 15, 2020, via the IDA, in which you provide a great deal more information concerning the basis for your request for expedited processing.

Upon receipt of your appeal, this office coordinated with the IDA's Office of Counsel. The IDA has agreed to reconsider your request for expedited processing. Accordingly, I hereby remand the matter to the IDA, by copy of this letter, for final action, as appropriate.

Please note that this remand in no way implies that the IDA has erred in any aspect of the disposition of your FOIA request or its embedded requests for expedited processing or waiver of fees. It is made simply to permit the IDA to reconsider the request for expedited processing.

Also please note that if, upon receipt of the IDA's final action upon reconsideration, you believe you have received an adverse determination on the request, you may again appeal to this office, provided you do so within 90 days of the IDA's final action.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil).

Sincerely,

(b) (6)

Diane M. Boyle  
Deputy General Counsel

Copy to:  
IDA

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** (b) (6); [CIV USN COMNAVSEASCOM DC \(USA\)](#); [Zeigler, Richard D CIV USN \(USA\)](#)  
**Subject:** FOIA APPEAL ICO TESLER (IN BEHALF OF SCHLECK)  
**Date:** Tuesday, July 21, 2020 11:50:11 AM  
**Attachments:** [FOIA 2.pdf](#)

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Mr. Tesler:

I am in receipt of your FOIA appeal (appeal number is DON-NAVY-2020-009475). Upon receipt, I coordinated this matter with the FOIA staff and Office of Counsel at Naval Sea Systems Command (the Initial Denial Authority, or IDA). The IDA agreed that it appears that the request was closed inadvertently as duplicative. Accordingly, I hereby remand the matter, by copy of this email, to the IDA, and direct the IDA to determine if, in fact, the closing of the request was inadvertent and, if so, to act upon your request forthwith. The appeal is closed.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to reassess action on your request iaw the FOIA. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action.

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,  
Richard D. Zeigler  
Assistant to the General Counsel (FOIA)

**From:** [Zeigler, Richard D CIV USN \(USA\)](#)  
**To:** (b) (6)  
**Cc:** [Zeigler, Richard D CIV USN \(USA\)](#); (b) (6); [CIV USN COMNAVSEASYS COM DC \(USA\)](#); (b) (6)  
[\(Ginger\) CIV USN COMNAVSEASYS COM DC \(USA\)](#)  
**Subject:** YOUR FOIA APPEAL DON-NAVY-2018-006762  
**Date:** Wednesday, September 2, 2020 9:15:59 AM

---

Mr. Trettel:

I am in receipt of subject FOIA appeal, which arises from your request as set forth in the FOIAOnline number identified above. Upon receipt, I coordinated this matter with the FOIA staff for the Initial Denial Authority, or IDA. The IDA has agreed to reconsider your request, in light of the matters set forth in your appeal. Accordingly, I hereby remand this matter, by copy of this email, to the IDA, and direct the IDA to act upon your request forthwith. Typically, the IDA would act within 30 days of this email, but the impact of COVID-19, the requirement to seek and obtain the record from DTIC, and the requirement to review it in light of the fact that it may well be subject to redaction in accordance the FOIA, may well result in a delay of some time. While it is impossible to predict how long it will take to process this record, no doubt the IDA will resolve your request as soon as possible within the limitations of the current (COVID-10) environment.

I note that this remand does not imply any error by the IDA. Rather, it is made for the sole purpose of allowing the IDA to take action on your request. Note that if you consider the IDA's final action to be adverse, you will have the opportunity to appeal to this office within 90 days of the date of that action. As an aside, I note that you postmarked your appeal letter on day 90 of your appeal clock. Current regulations require that the appeal letter be received by the proper appellate authority within that timeframe. The IDA letter used "receipt," not "postmark," language. Nevertheless, this office has not rejected your appeal as untimely for the same reasons you may expect delay in the processing of your request upon this remand (i.e., we recognize the postal service, including the Pentagon Mail Room and our own, internal mail systems, are also subject to delays caused by COVID-19).

The IDA will contact you directly with any further action, and if you have questions, you should contact the IDA.

Finally, while normally you would receive a formal letter regarding this matter, current circumstances require that I take this action by email. You will receive no further notice of this action. Please reply to confirm your receipt of this action.

Sincerely,

Richard D. Zeigler

Assistant to the General Counsel (FOIA)





**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/074

December 26, 2019

Mr. Aaron Gregg  
The Washington Post  
1301 K Street N.W.  
Washington, D.C. 20071  
Email to: (b) (6)

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-2019-08891; FOIA APPEAL DON-NAVY-2020-002705**

This letter responds to your FOIA appeal received by my office on December 10, 2019, and given the tracking number 2020-004211. Your underlying FOIA request, DON-NAVY-2019-08891, was submitted to Navy Special Warfare Command (SPECWARCOM), the initial denial authority (IDA). Your appeal argues that you have not received any response from the IDA, yet you submitted your request in August 2019.

Your appeal is a request for a final administrative determination under the FOIA. For the reasons stated below, your appeal is denied as moot and no further action will be taken.

Following receipt of your appeal, my office contacted the IDA to check on the status of your request. SPECWARCOM provided me letter 5720 Ser N01GC/930 dated December 6, 2019. In that letter, SPECWARCOM provided you records responsive to your request. It appears that after you mailed your appeal to my office on November 27, 2019 the IDA provided you with a substantive response. Because you have received a substantive response from the IDA, your appeal is moot.

As identified in the IDA's letter that provided you with responsive records, you may file a new FOIA appeal addressing the IDA's substantive response to your request.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. Government and is, therefore, unable to assist you in this process.

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil) or at (703) 697-0031. You may also seek dispute resolution services from the Office of

Government Information Services (OGIS), the Federal FOIA Ombudsman's Office, at (202) 741-5770 or [ogis@nara.gov](mailto:ogis@nara.gov).

If you have further questions or concerns for my office, my point of contact is Major (b) (6), USMC. He may be reached at (b) (6) [navy.mil](mailto:(b) (6)@navy.mil) or (b) (6).

Sincerely,

(b) (6)

E. J. OSTERHUES  
Director (Acting)  
General Litigation Division

Copy to:  
SPECWARCOM  
DNS-36  
DON OCIO



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/141

March 13, 2020

Major Clifford Hilaire, USMCR

(b) (6)

Email to: (b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-USMC-  
2020-0033339; FOIA APPEAL DON-NAVY-2020-003577

This letter responds to your FOIA appeal that was received by my office on January 14, 2020 and given the FOIA tracking number 2020-003577. Your underlying FOIA request was submitted to Marine Corps Forces Reserve (MARFORRES), the initial denial authority (IDA), seeking details of entries made about you within the Officer Disciplinary Notebook (ODN) in May 2019. MARFORRES denied your request, citing FOIA exemption (b)(7)(A). You appealed the denial, arguing (b)(7)(A) inapplicable.

Your appeal is a request for a final determination under the FOIA. For the reasons stated below, your appeal is denied as moot and no further action will be taken.

After receiving your appeal, my office contacted MARFORRES to notify the command that you had appealed their denial. MARFORRES then informed my staff that the denial of your request had been withdrawn and it forwarded your request to Headquarters Marine Corps Headquarters (HQMC) for processing as a Privacy Act request. You received notification of this referral via email on January 17, 2020. Because the IDA withdrew the denial and the processing of your request remains ongoing, this office is without the authority to grant you relief. Therefore, your appeal is moot. Please be advised however, that you retain the right to appeal any subsequent release decision made by HQMC in accordance with the appellate rights statement to be provided to you.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is therefore unable to assist you in this process.

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031, or the Marine Corps FOIA public liaison, Ms. Sally Hughes, at (b) (6) usmc.mil or at (b) (6). You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.



5720  
Ser 14/141  
March 13, 2020

If you have further questions or concerns for my office, my point of contact is Major (b) (6) (b) (6), USMC, who may be reached at (b) (6), or (b) (6) navy.mil.

Sincerely,

(b) (6)

E. J. OSTERHUES  
Director (Acting)  
General Litigation Division

Copy to:  
MARFORRES  
HQMC (ARSF)  
DON OCIO



**UNITED STATES MARINE CORPS**  
MARINE CORPS INSTALLATIONS PACIFIC-MCB CAMP BUTLER  
UNIT 35001  
FPO AP 96373-5001

5211  
SJA/FOIA  
9-Sep-19

Dear Lieutenant Korey D. Jordan, US Army:

**SUBJECT: PRIVACY ACT REQUEST DON-USMC-2019-010314**

This letter is in response to your request seeking a copy of records from the Office of the Provost Marshal, Marine Corps Base, Camp Smedley D. Butler regarding "the recording of the phone call made by the complainant to the dispatcher for Incident Number 05MAY19-40KI-00681-7GMA or Report Number 192023000681." Your request was received by this office on August 15, 2019 under case file DON-USMC-2019-010314. Please note that your request is categorized as Other Use Requester under the fee requirements of 43 C.F.R. §§2.38, .39, Appendix A, and therefore you have not been charged for the first two hours of search time or for the first 100 pages of duplicated/scanned pages (or their equivalent volume).

Privacy Act System of Records Notice for the Security Incident Systems has a "Routine Use" provision that provides for the nonconsensual disclosure to "individuals involved in base incidents, their insurance companies, and/or attorneys for the purpose of adjudicating a claim, such as personal injury, traffic accident, or other damage to property." See Department of the Navy, Privacy Act Notice NM05580-1 and Secretary of the Navy Instruction (SECNAVINST) 5211.5E paragraph (13)(c).

However, we have determined that the responsive records are exempt from disclosure under the FOIA, as implemented by the Department of the Navy in SECNAVINST 5720.42G. Accordingly, your request has been denied in full as follows:

Under 5 U.S.C. §552 (b)(3), which covers information specifically exempted from disclosure by statute. 10 U.S.C. §130(b)(a)(1) establishes that the names, ranks, and duty addresses of military and Department of the Navy/Department of Defense civilian personnel assigned to units that are sensitive, routinely deployable, and/or stationed in foreign territories are to be withheld under the FOIA. 10 U.S.C. §130(c) authorizes the withholding of information if it was provided by, otherwise made available by, or produced in cooperation with a foreign government when national security officials have specified that releasing the information would have an adverse effect of the ability of the U.S. government to obtain the same or similar information in the future.

Under 5 U.S.C. §552 (b)(6), and SECNAVINST 5720.42G, enclosure (4), paragraph (f), certain records or information related to third parties which are found in "personnel and medical files and similar files" may be exempt from disclosure if release of the records or information would constitute a clearly unwarranted invasion of personal privacy. This includes, but is not limited to, the names of DON/DoD military and civilian personnel assigned to units stationed in foreign territories, addresses, birthdates, social security numbers, and any other personally identifiable information regarding third parties.

Under 5 U.S.C. §552 (b)(7)(c), records or information compiled for law enforcement purposes may be withheld if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy, and such records or information may also be withheld under (b)(7)(f) if the disclosure could reasonably be expected to endanger the life or physical safety of any individual. Therefore, we have excised this information from the releasable documents.

You may consider this to be an adverse determination that may be appealed. You may do so via FOIAonline. To do this, log into your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to the Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. I recommend that your appeal and its envelope both bear the notation, "Freedom of Information Act Appeal".

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at [hqmcfoia@usmc.mil](mailto:hqmcfoia@usmc.mil) or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil) or (703) 697-0031. You may also contact the Office of Government Information Services (OGIS) for assistance and/or dispute resolution at [ogis@nara.gov](mailto:ogis@nara.gov) or 1-877-684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

Any questions concerning this matter should be directed to me at (b) (6) [usmc.mil](mailto:(b) (6)@usmc.mil), at DSN: (b) (6).

I am the official responsible for the denial of your request.

Sincerely,

(b) (6)

I. E. OSSIANDER  
Major, U.S. Marine Corps  
Deputy, Staff Judge Advocate



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

**JAN 15 2020**

REGULAR U.S. MAIL

Michael Middleton  
M3 Partners, LLC  
31 Wade Hampton Blvd  
Greenville, SC 29609

Dear Mr. Middleton:

You appealed from the action of Naval Air Warfare Center Aircraft Division), the Initial Denial Authority (IDA), on your Freedom of Information Act (FOIA) request for records related to certain records you identified with particularity in your request.

On October 31, 2019, the IDA responded and provided you with two records responsive to the request, both with one redaction under FOIA Exemption 6.

You contend that the IDA erred in redacting the name of the evaluator and that the records had no date on them.

For the reasons set forth, below, I hereby deny your appeal.

Upon receipt of your appeal, personnel from the FOIA Office of the Office of the General Counsel coordinated with the IDA's FOIA office. As a result, it was determined that the second basis of appeal—that with respect to the date—is unfounded because, simply, the documents are undated.

With respect to your assertion that the IDA erred in redacting information from the responsive records, FOIA exemption (b)(6) permits the Government to withhold information about individuals when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Exemption (b)(6) applies to "personnel and similar files." Applying the exemption requires a balancing of personal privacy interests against the public interest served by disclosure (i.e., whether the release of the information will shed light on the agency's performance of its statutory duties). In this case, the IDA withheld personally identifying information in personnel or similar files under FOIA exemption (b)(6). Third party privacy interests in all of the personally identifying information, including information that could lead to the identification of parties, which was withheld by the IDA, outweigh what little, if any, public interest exists in release. Thus, the IDA properly withheld the redacted information under exemption 6.

Accordingly, I deny your appeal.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for this decision. This decision is the final agency decision for the Department of the Navy and the Department of Defense. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is therefore unable to assist you in this process.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil).

Sincerely,

(b) (6)

Diane M. Boyle  
Deputy General Counsel

Copy to:  
IDA



DEPARTMENT OF THE NAVY  
OFFICE OF THE GENERAL COUNSEL  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

DEC 16 2019

Regular U.S. Mail

Mrs. Bonnie R. Plettner

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2020-002576

Dear Mrs. Plettner:

This letter responds to your December 6, 2019 Freedom of Information Act (FOIA) appeal, received in this office on December 16, 2020 from the Office of the Judge Advocate General, to whom it had been originally assigned. It has been assigned FOIAonline appeal number DON-NAVY-2020-002576.

You appealed from the action of the Naval Criminal Investigative Service (the Initial Denial Authority (IDA)) on your request of June 6, 2019 related to "all audits and investigations" of military housing in New Orleans. Your original request was denied with a no records response. After your appeal to this office, the IDA, upon reconsideration, again found no records but referred your request to several other listed Navy activities. Here, you indicate in your appeal that you received an audit report on both December 3<sup>rd</sup> and 6<sup>th</sup>, and object to redactions under FOIA Exemptions 4, 5, and 6.

Upon receipt of your appeal, I coordinated with the FOIA Office at NCIS. That office did not send you any audit reports. As noted, that office never located any records responsive to your request (which you identify as DON-NAVY-2019-008255), notified you of such, and referred your request to other Navy activities. It appears that you have appealed under a request number that is not, in fact, the correct request number (note that each activity to which your request was referred should have created a new request number and controlled your request within that activity using that number). As a result, I have no access to any IDA action or to any records you may have received.

Accordingly, I am closing your appeal as moot. If you have received a response on your request from one of the other activities, and wish to appeal that response, please associate your appeal with an IDA action that I can review. The simplest way to do this is to send a hard copy appeal to this office with a copy of your request, the IDA action, and any records you may have received. Alternatively, you may create a new appeal in FOIAonline provided it is associated with a request as controlled by one of the other activities. As my action is purely administrative in nature, it does not result in the exhaustion of your administrative remedies, and, therefore, no right to be informed of judicial review of the agency's action in this case.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA Public Liaison, Mr. Christopher Julka, at (703) 697-0031, or christopher.a.julka@navy.mil.

Sincerely,

(b) (6)

Richard D. Zeigler  
Assistant to the General Counsel

Copy to: IDA



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/013

October 23, 2019

ENS Brianna Reese, USN  
C/O CDR (b) (6), USN JAGC  
(b) (6)

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY  
2019-010934; FOIA APPEAL DON-NAVY-2020-00397**

This letter responds to your FOIA appeal received by my office on October 8, 2019 and given the FOIA tracking number DON-NAVY-2020-00397. Your underlying FOIA request was given the tracking number 2019-010934 and was submitted to the Naval Criminal Investigatory Service (NCIS), the initial denial authority (IDA), seeking the investigation of which you were the accuser. The IDA responded to you on September 7, 2019, informing you that the investigation was not complete and therefore prohibited from release pursuant to FOIA exemption (b)(7)(A). Your appeal argues for release of the investigation because "there is no good faith basis to logically or plausibly support that the release of this report could interfere with enforcement proceedings."

Your appeal is a request for a final determination under the FOIA. For the reason stated below, your appeal is denied as moot.

By copy of letter SER00LJF/19U1983 the IDA informed you that the investigation is now closed and it would be providing you the records you seek shortly. Thus, your challenge regarding the application of FOIA exemption (b)(7)(A) is now moot. To the extent you wish to challenge NCIS's substantive response to your request, you may do so only via a separate, new appeal which must be received in my office no later than 90 calendar days from the date of the IDA providing their final response letter to you.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is therefore unable to assist you in this process.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031.



5720  
Ser 14/013  
October 23, 2019

If you have further questions or concerns for my office, my point of contact is Major  
(b) (6), USMC, who may be reached at (b) (6), or  
(b) (6) navy.mil.

Sincerely,

(b) (6)

G. E. LATTIN  
Director  
General Litigation Division

Copy to:  
NCIS  
DNS-36  
DON OCIO



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/231

July 20, 2020

***Via FOIA Online and Email***

Felipe Serro

(b) (6)

[REDACTED]  
[REDACTED]

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY  
2020-004547; FOIA APPEAL DON-NAVY-2020-009685**

This responds to your FOIA appeal received by my office on July 7, 2020, and given the tracking number DON-NAVY-2020-009685. You appeal the partial denial of your FOIA request, DON-NAVY-2020-004547, seeking records regarding the 1992 murder of Sailor Allen Schindler. In your appeal, you dispute the withholding under FOIA exemptions b(6) and b(7)(C) of his personal journal, and the redaction of information you claim is publicly available.

Your appeal is a request for a final determination under the FOIA. For the reasons stated below, your appeal is denied as moot, and the matter is remanded to the IDA for release of the withheld matters.

Following receipt of your appeal, my office contacted the Headquarters, Naval Criminal Investigative Service (NCIS), the initial denial authority (IDA) for your FOIA request. The IDA indicated that they would release the withheld matters and requested we remand your case to them to do so. Because the IDA had indicated that it will provide you all of the requested materials, I am denying your appeal as moot.

By copy of this letter, I am remanding the matter back to the IDA in accordance with their request, and directing them to release the withheld matters to you in accordance with their indication. Upon final release of all the documents to you, if you are dissatisfied with the response, you still retain the right to appeal that response to this office on whatever grounds you deem appropriate.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. Government and is, therefore, unable to assist you in this process.

5720  
Ser 14/231  
July 20, 2020

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have further questions or concerns for my office, my point of contact is Lieutenant (b) (6), USN who may be reached at (b) (6)@navy.mil or (b) (6).

Sincerely,

(b) (6)

S. D. SCHROCK  
Director  
General Litigation Division

Copy to:  
NCIS HQ  
DNS-36  
DON CIO



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/051

December 2, 2019

Charles Emmanuel Spirtos

(b) (6)

Email to: (b) (6)

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-011233 and DON-NAVY-2019-011234; FOIA APPEALS DON-NAVY-2020-000283 and DON-NAVY-2020-000284**

This letter responds to your FOIA appeals received by my office on October 25, 2019 and given the FOIA tracking numbers 2020-000283 and 2020-000284. The two corresponding underlying FOIA requests were submitted to the Naval Service Training Command (NSTC), the initial denial authority (IDA). FOIA request 2019-011233, which has the appeal number 2020-000283, sought "Midshipman performance rankings nationwide for the years 2018 and 2019." FOIA request 2019-011234, which has the appeal number 2020-000284, sought "Midshipman performance rankings for midshipmen commissioning from the George Washington University Capital Battalion NROTC for the years 2018 and 2019." The IDA denied both requests on the basis that:

There are no documents that rank performance of midshipmen; therefore, there are no documents responsive to your request. Navy records do not aggregate the performance rank of Navy ROTC program participants at the unit level or nationwide by any measure.

You now appeal both denials on the same basis, asserting that "Aptitude rankings factor into midshipman ship and billet selection and as such there must be an aggregated list of these aptitude rankings both by unit and nationwide. There is no possibility that this information is not stored in a DoN record system."

The initial response from NSTC informed you that no such record exists, which you used as the sole basis for your appeal. However, the NSTC has further researched the issue following its response to you and has now determined that there is one document that is responsive to your request. However, by copy of letter 5720, Ser OGC, dated November 25, 2019, the IDA informed you that it was withholding the record pursuant to FOIA exemptions (b)(2), (b)(3), (b)(5), and (b)(6) along with Privacy Act Exemption (k)(7).

Because you were not aware of the existence of this document when you filed your appeal, which you based solely on the denial of the existence of the document you sought, and

because the NSTC has now determined that such a document does exist, I am considering your appeals in DON-NAVY-2020-000283 and DON-NAVY-2020-000284 to be moot.

However, following your review of the NSTC supplemental response, you still retain the right to appeal that response to this office on whatever grounds you deem appropriate. You must appeal that response within 90 days of the date on the NSTC response letter.

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of your appeals on mootness grounds. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is, therefore, unable to assist you in this process.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have further questions or concerns for my office, my point of contact is Major (b) (6), USMC, who may be reached at (b) (6)@navy.mil or (b) (6).

Sincerely,

(b) (6)

G. E. LATTIN  
Director  
General Litigation Division

Copy to:  
NSTC  
DNS-36  
DON OCIO



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/117

February 21, 2020

Mr. William J. Waters

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-2020-003589; FOIA APPEAL DON-NAVY-2020-003745

This letter responds to your FOIA appeal, DON-NAVY-2020-003745, received by my office on January 21, 2020. Your underlying FOIA request, DON-NAVY-2020-003589, was submitted to the Naval Criminal Investigative Service, the initial denial authority (IDA), on January 14, 2020. Your request sought "USMC Criminal Background Check," and listed your date of birth and social security number. Your appeal states that you requested the information by February 5, 2020, for "police academy."

On January 24th, the IDA submitted its official response to your request, and detailed that a search of its Consolidated Law Enforcement Operations Center (CLEOC), NCIS Knowledge Network (K-Net), and Records Imaging Management System (RIMS) databases did not identify any responsive records for your request.

Your appeal is a request for a final determination under the FOIA. Your appeal was submitted within the allotted working time for the IDA to process your records, and the IDA provided a full response to your request. I find that the IDA's search was adequate and reasonable to identify any ongoing or prior investigations responsive to your request.

Because your appeal sought the IDA's response before February 5, 2020, and the IDA responded to your request on January 24, 2020, I find your appeal moot. Accordingly, your appeal is denied.

To the extent your appeal could be read to include an inadequate search, for the lack of any identifiable records regarding your history, I find the IDA's search to be reasonable and adequate.

The adequacy of an agency's search for information requested under the FOIA is determined by a "reasonableness" test. *Meeropol v. Meese*, 790 F.2d 942, 956 (D.C. Cir. 1986); *Weisberg v. United States Dep't of Justice*, 705 F.2d 1344, 1350-51 (D.C. Cir. 1983). As a general rule, an agency must undertake a search that is reasonably calculated to locate the requested information. *Kowalczyk v. Department of Justice*, 73 F.3d 386, 388 (D.C. Cir. 1996). Courts have found agencies satisfy the "reasonableness" test when they properly

determine where responsive records are likely to be found and search those locations. *Lechlitter v. Rumsfeld*, 182 F. App'x 113, 115 (3rd Cir. 2006) (concluding that agency fulfilled duty to conduct a reasonable search when it searched two offices that it determined to be the only ones likely to possess responsive documents (citing *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)); *McKinley v. Bd. of Governors of the Fed. Reserve Sys.*, 849 F. Supp. 2d 47, 55-56 (D.D.C. 2012) (concluding that agency's search was reasonable because agency determined that all responsive records were located in a particular location created for express purpose of collecting records related to subject of request and searched that location).

Moreover, courts have found that an agency's inability to locate a responsive record does not undermine an otherwise reasonable search. *Moore v. FBI*, 366 F. App'x 659, 661 (7th Cir. 2010) (noting that although agency had years earlier destroyed some potentially responsive records, that fact does not invalidate the search). Additionally, the mere speculation that requested documents exist does not undermine the finding that the agency conducted a reasonable search. *Wilbur v. C.I.A.*, 355 F.3d 675, 678 (D.C. Cir. 2004) ("Likewise, the agency's failure to turn up a particular document, or mere speculation that as yet uncovered documents might exist, does not undermine the determination that the agency conducted an adequate search for the requested records.").

Finally, while agencies have to search for records responsive to FOIA requests, they are not required to either create documents or to respond to questions. *See LaRoche v. SEC*, 289 F. App'x 231, 231 (9th Cir. 2008), *Schoenman v. FBI*, 573 F. Supp. 2d 119, 140 (D.D.C. 2008), nor answer questions posed as FOIA requests; (*Zemansky v. EPA*, 767 F.2d 569, 574 (9th Cir. 1985); *DiViaio v. Kelley*, 571 F.2d 538, 542-43 (10th Cir. 1978); *Jean-Pierre v. BOP*, No. 12-78, 2012 WL 30653773065377, at \*6 (D.D.C. July 30, 2012).

After receiving your appeal my office contacted the IDA, who provided our office the letter issued to you, noting the IDA's review of known databases and records for present and historical investigations using your provided identifiers (name, date of birth, and social security number). No records were found. I find that the IDA's efforts were reasonable to locate any investigations that may be relevant to your requested "USMC Background check." I further find that the IDA was not required to craft or run an employment-style background check to satisfy your request (which would create a record), nor was it required to provide any additional information (which would then be responding to a question posted as a FOIA request).

As the Department of the Navy's designated adjudication official for this FOIA appeal, I am responsible for the denial of this appeal. You may seek judicial review of this decision by filing a complaint in an appropriate U.S. District Court. My office represents the U.S. government and is therefore unable to assist you in this process.

5720  
Ser 14/117  
February 21, 2020

You have the right to seek dispute resolution services by contacting the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or at (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have further questions or concerns for my office, my point of contact is Maj (b) (6) (b) (6), USMC, who may be reached at (b) (6) navy.mil or (b) (6).

Sincerely,

(b) (6)

G. E. LATTIN  
Director  
General Litigation Division

Copy to:  
NCIS HQ  
DNS-36  
DON OCIO